



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Michelle J. Pillers et al.

Attorney Docket No. PMAI-1-1401

Serial No.: 09/479,410

Group Art Unit: 3727

Filing Date: January 6, 2000

Examiner: Robin A. Hylton

Assignee: Pacific Market, Inc.

Title: TWIST LID FOR DRINKWARE

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, Virginia 22313-1450

**DECLARATION OF MICHAEL J. FOLISE, ESQ.**

I, Michael J. Folise, Esq. hereby declare as follows:

1. I am counsel for the Applicant in the above identified opposition.
2. I am the attorney authorized to prosecute this application.
3. I caused a "Change of Attorney Address" to be filed with the United States Patent and

Trademark Office on January 10, 2003, changing the undersigned's address from 1200 Fifth Avenue, Suite 1801, Seattle, Washington 98101 to 701 Fifth Avenue, Suite 6300, Seattle, Washington 98104.

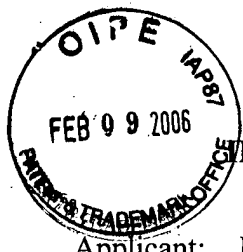
A true and correct copy of that document, and a postcard indicating receipt by the Office on January 21, 2003 are attached to the Declaration of Ms. Brenda Ruthrauff as Exhibits B and C thereto.

I am aware that willful false statements and the like are punishable by fine or imprisonment, or both (18 U.S.C. 1001) and may jeopardize the validity of the application or any patent issuing thereon. I declare that all statements are of my own knowledge and are true and that all statements made on information and belief are believed to be true.

DATED this 2nd day of February, 2008 at Seattle, Washington.

By: 

Michael J. Folise  
Reg. No. 31,952



**UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Michelle J. Pillers et al.

Attorney Docket No. PMAI-1-1401

Serial No.: 09/479,410

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Filing Date: January 6, 2000

Examiner: Robin A. Hylton

Assignee: Pacific Market, Inc.

Title: TWIST LID FOR DRINKWARE

Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**PETITION TO RESCIND NOTICE OF ABANDONMENT**

Sir:

This Petition is in Response to a "Notice of Abandonment" initially mailed by the Patent Office on February 9, 2004 and received for the first time by the undersigned almost nine months later on November 1, 2004. A copy of that Notice is attached hereto as Exhibit A. The Notice was issued as a result of Applicant's failure to pay the issue fee. The attached Declarations of Mr. Folise and his legal assistant, Brenda Ruthrauff, form a part of this Response. No fee is required.

As set forth in the attached Declarations, undersigned counsel filed the enclosed Change of Correspondence Address (Exhibit B) on January 10, 2003 changing the undersigned's address from 1200 Fifth Avenue, Suite 1801, Seattle, Washington 98101 to 701 Fifth Avenue, Suite 6300, Seattle, Washington 98104 as evidenced by the enclosed return postcard (Exhibit C). Nevertheless, the

Patent Office mailed the original Notice of Allowance dated October 1, 2003 to undersigned counsel's previous address of 1200 Fifth Avenue in Seattle, Washington and it was therefore not received by applicant's attorney. On March 4, 2003 counsel filed a Status Inquiry (Exhibit D) regarding the status of this case. The Patent Office acknowledged receipt of the Status Inquiry as evidenced on the return postcard (Exhibit E). The remailed Notice of Abandonment was not mailed from the Patent Office until October 27, 2004, over a year and half after receipt of the Status Inquiry by the Patent Office (Exhibit A). This Petition was prepared and filed upon location of the Change of Correspondence Address and postcard documents.


This Petition includes, in a separate attached paper, a full response to the Notice of Allowance dated October 1, 2003 including:

- i) Our check No. 16079 ~~14909~~ in the amount of \$ 671 for payment of the Issue Fee;
- ii) Part B of the Notice of Allowance; and
- iii) Submission of Formal Drawings.

As can be concluded by these referenced exhibits, an earnest attempt at continuous and proactive prosecution of this case has been made by applicant's attorney.

Respectfully submitted,

Michelle J. Pillers, et al.



By: Michael J. Folise, Esq.  
Reg. No. 31,952  
Black, Lowe & Graham PLLC  
701 Fifth Avenue, Ste. 4800  
Seattle, WA 98104  
Telephone: 206.381.3300  
Facsimile: 206.381.3301

MJF/bjr

Enclosures:

Return Post Card

Petition to Rescind Notice of Abandonment's Exhibits A-E

Declaration of Michael J. Folise, Esq.

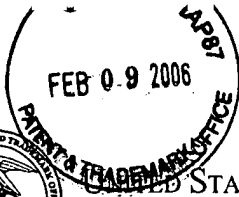
Declaration of Brenda Ruthrauff with Attachments A-F

Response to Notice of Allowance

Formal Drawings

Check No. ~~14907~~ <sup>16079</sup> for \$ <sup>671</sup>

S:\CLIENTS\PPMA\I-PATENTS\I-1401 (730126.401)\RESC-ABND.DOC



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/479,410	01/06/2000	MICHELLE J. PILLERS	PA19.P15	3004

25315 7590 10/27/2004

BLACK LOWE & GRAHAM, PLLC  
701 FIFTH AVENUE  
SUITE 4800  
SEATTLE, WA 98104

EXAMINER

HYLTON, ROBIN ANNETTE

ART UNIT PAPER NUMBER

3727

DATE MAILED: 10/27/2004

*Remailed*

Please find below and/or attached an Office communication concerning this application or proceeding.

**RECEIVED**

NOV 01 2004

Time Received

**Black Lowe & Graham PLLC**

EXHIBIT A



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/479,410	01/06/2000	MICHELLE J. PILLERS	PA19.P15	3004

7590 02/09/2004

RICHARDSON & FOLISE  
1200 FIFTH AVENUE  
SUITE 1801  
SEATTLE, WA 98101

EXAMINER

HYLTON, ROBIN ANNETTE

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 02/09/2004

p #19

Please find below and/or attached an Office communication concerning this application or proceeding.

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MAR 02 2004

TECHNOLOGY CENTER R3700



UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
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09/479, 410

EXAMINER
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ART UNIT	PAPER NUMBER
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DATE MAILED:

<sup>P #19</sup>  
ABANDONMENT  
CONTACT PERSON IS  
TOM HAWKINS  
305-8380

### NOTICE OF ABANDONMENT

This application is abandoned in view of:

- ☐ Applicant's failure to timely file a proper reply to the Office letter mailed on \_\_\_\_\_.
- ☐ A reply (with Certificate of Mailing or Transmission of \_\_\_\_\_) was received on \_\_\_\_\_ which is after the expiration of the period for reply (including a total extension of time of \_\_\_\_\_ month(s)) which expired on \_\_\_\_\_.
- ☐ A proposed reply was received on \_\_\_\_\_, but it does not constitute a proper reply under 37 CFR 1.113 to the final rejection.  
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
- ☐ A reply was received on \_\_\_\_\_, but it does not constitute a proper reply, or a *bona fide* attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in the last box below).
- ☐ No reply has been received.

- ☒ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).

- ☐ The issue fee and publication fee, if applicable, was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85)(or Notice of Publication Fee Due).
- ☐ The submitted fee of \$ \_\_\_\_\_ is insufficient. A balance of \$ \_\_\_\_\_ is due.  
The issue fee by 37 CFR 1.18 is \$ \_\_\_\_\_. The publication fee, if required, by 37 CFR 1.18(d) is \$ \_\_\_\_\_.
- ☒ The issue fee and publication fee, if applicable, have not been received.

- ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTOL-37).

- ☐ Proposed corrected drawings were received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply.
- ☐ No corrected drawings have been received.

- ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all the applicants.
- ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon filing of a continuing application.
- ☐ The decision by the Board of Patent Appeals and Interferences rendered on \_\_\_\_\_ and because the period for seeking court review of the decision has expired and there are no allowed claims.
- ☐ The reason(s) below: \_\_\_\_\_

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

**Respond to the Notice of Abandonment by one of the following:**

**Petition To Withdraw Holding of Abandonment (See MPEP 711.03(c) I) and 37 CFR § 1.181) No fee required**

Where an applicant contends that the application is not in fact abandoned (e.g., there is disagreement as to the sufficiency of the reply, or as to controlling dates), a petition under 37 CFR § 1.181(a) requesting withdrawal of the holding of abandonment is the appropriate course of action. Any petition under 37 CFR § 1.181, to withdraw the holding of abandonment not filed within 2 months of the mail date of a Notice of Abandonment may be dismissed as untimely under 37 CFR § 1.181(f). In order for a petition to be granted, the evidence must be sufficient according to one of the following standards:

- 37 CFR § 1.8(b) Certificate of Mailing
- 37 CFR § 1.10 "Express Mail" mailing
- MPEP 503 Postcard Receipt as Prima Facie Evidence

Petition To Withdraw Holding Of Abandonment should be addressed as follows:

By mail: Commissioner For Patents, P.O. Box 1450, Mail Stop: Issue Fee, Alexandria, VA  
22313-1450

By facsimile: 703-305-8755 or 703-305-4372

**Petition To Withdraw Holding Of Abandonment Based On Failure To Receive Office Action (See MPEP 711.03(c) II). No fee required**

Where an applicant contends that the original Notice of Allowance and Issue Fee Due was never received. If adequately supported, the Office may grant the petition and remail the Office action. The showing required establishing non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

Petition should be addressed to the Technology Center handling the application as follows:

By mail: Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450  
(Mark attention of a particular office or individual)

By facsimile: Technology Center numbers posted at <http://www.uspto.gov/september1/faxnotice.htm>

**Petition To Revive An Abandoned Application (See MPEP 711.03(c) III)**

Where there is no dispute as to whether an application is abandoned (e.g. the applicant's contentions merely involve the cause of abandonment) a petition under 37 CFR § 1.137 (a) unavoidable or (b) unintentionally (accompanied by the appropriate petition fee) is necessary to revive the abandoned application.

Petitions under 37 CFR § 1.137 should be addressed to the Office of Petitions as follows:

By mail: Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450

By hand: Crystal Plaza 4, Rm. 3C23, 2201 Clark Place, Arlington, VA

By facsimile: 703-308-6916

Petition For Revival Of An Application For Patent Abandoned Unavoidably Under 37 CFR § 1.137(a) and Unintentionally Under 37 CFR 1.137(b), forms available at USPTO website – <http://www.uspto.gov>

**Note:** Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : 09/479,410  
Filed : January 6, 2000  
For : TWIST LID FOR DRINKWARE

Docket No. : 730126.401  
Date : January 10, 2003

Commissioner for Patents  
Washington, DC 20231

CHANGE OF CORRESPONDENCE ADDRESS

Commissioner for Patents:

The undersigned attorney of record requests that the correspondence address in the above-identified application be changed to:



00500

PATENT TRADEMARK OFFICE

Michael J. Folise  
Seed Intellectual Property Law Group PLLC  
701 Fifth Avenue, Suite 6300  
Seattle, Washington 98104-7092  
Phone: (206) 622-4900  
Fax: (206) 682-6031

Respectfully submitted,  
Seed Intellectual Property Law Group PLLC

Michael J. Folise  
Registration No. 31, 952

850003.00002

MJF:mt

Date Stamp

Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, Virginia 22202-3513

SENT: January 17, 2003

Kindly acknowledge receipt of the below-listed documents by placing  
your receiving stamp hereon and mailing:

**Change of Correspondence Address Forms.**

D:\NrPortbl\iManage\MICHELLEM\349977\_1.DOC

**Seed Intellectual Property Law Group PLLC**



01-21-2003

U.S. Patent & TMOtc/TM Mail Rcpt Dt. #30

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**JAN 30 2003**

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LAW GROUP PLLC**

**SEED**

**INTELLECTUAL PROPERTY LAW GROUP PLLC**

**701 FIFTH AVENUE, SUITE 6300**

**SEATTLE, WA 98104-7092**



76



EXHIBIT C

Please type a plus sign (+) inside this box → ☐

PTO/SB/21 (08-00)


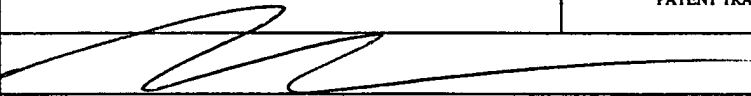
Approved for use through 10/31/2002. OMB 0651-0031

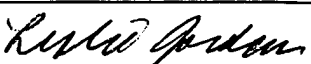
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

<b>TRANSMITTAL FORM</b>  <i>(To be used for all correspondence after initial filing)</i>	Application Number	09/479,410
	Filing Date	January 6, 2000
	First Named Inventor	Michelle J. Pillers
	Group Art Unit	3727
	Examiner Name	Robin Annette Hylton
	Attorney Docket No.	730126.401

ENCLOSURES (check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Response <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement; Form PTO-1449 <input type="checkbox"/> Cited References <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts under 37 C.F.R. 1.52 or 1.53 <input type="checkbox"/> Response to Missing Parts/Incomplete Application	<input type="checkbox"/> Assignment Papers (for an Application) <input type="checkbox"/> Drawing(s) <input type="checkbox"/> Request for Corrected Filing Receipt <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation, Change of Correspondence Address <input type="checkbox"/> Declaration <input type="checkbox"/> Statement under 37 CFR 3.73(b) <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Small Entity Statement <input type="checkbox"/> Request for Refund	<input type="checkbox"/> CD(s), Number of CD(s) _____ <input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input checked="" type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Return Receipt Postcard <input type="checkbox"/> Additional Enclosure(s) (please identify below): <u>Copy of Status Letter</u> <u>Return envelope</u>   
Remarks		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT		
Individual Name	Michael J. Folise	 <b>00500</b> PATENT TRADEMARK OFFICE
Signature		
Date	March 4, 2000	

CERTIFICATE OF MAILING		
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, Washington, D.C. 20231 on the date specified below.		
Typed or printed name	Leslie Jordan	
Signature		Date: 3/4/2000

C:\N\Portb\N\Manage\LESLIE\J361200\_1.DOC: DOC PTO/SB21-STATUSING PA19.P15

EXHIBIT D

PATENT

I hereby certify that on the date specified below, this correspondence is being deposited with the United States Postal Service as first-class mail in an envelope addressed to the Commissioner for Patents, Washington, DC 20231.

Date 3/4/2003 Leslie Jordan  
Leslie Jordan

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Michelle J. Pillers et al.  
Application No. : 09/479,410  
Filed : January 6, 2000  
For : TWIST LID FOR INSULATED BEVERAGE CONTAINER

Examiner : Robin Annette Hylton  
Art Unit : 3727  
Docket No. : 730126.401  
Date : March 4, 2003

Commissioner for Patents  
Washington, DC 20231

STATUS INQUIRY

Commissioner for Patents:


More than three months have passed since the filing of a response in the above-identified application on November 6, 2002. No further communication has been received from the Patent and Trademark Office indicating action in this matter.

Applicants request that the undersigned attorney of record be advised of the present status of the above-identified application by checking the appropriate box below. A stamped return-addressed envelope is enclosed.

Respectfully submitted,

Michelle J. Pillers et al.

Seed Intellectual Property Law Group PLLC

  
Michael J. Folise  
Registration No. 31,952

MJF:lj

### STATUS INQUIRY REPLY

Application No. is currently

- ☐ Assigned to Group \_\_\_\_\_ and awaits:
- ☐ Action by the Examiner.
- ☐ Applicants' response to the Office Action mailed  
\_\_\_\_\_.

Enclosures:

Postcard  
Form PTO/SB/21  
Copy of Status Inquiry  
Return envelope

701 Fifth Avenue, Suite 6300  
Seattle, Washington 98104-7092  
Phone: (206) 622-4900  
Fax: (206) 682-6031

C:\NrPortbl\iManage\LESLIEJ361196\_1.DOC: DOC-STATUS INQ PA19.P15

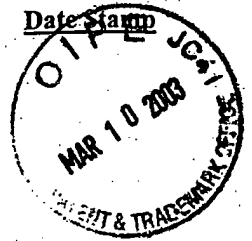
730126.401

MJF:lj

*colce*

Commissioner for Patents  
Washington, DC 20231

SENT: March 4, 2003



Kindly acknowledge receipt of the below-listed documents by placing your receiving stamp hereon and mailing:

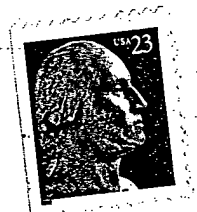
PTO/SB/21; Status Inquiry (and copy); return envelope; in re: Michelle J. Pillers et al., USAN 09/479,410, filed January 6, 2000, for TWIST LID FOR INSULATED BEVERAGE CONTAINER.

C:\NrPortbl\Manage\LESLIEJ361610\_1.DOCSEED INTELLECTUAL PROPERTY LAW GROUP PLLC

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MAR 17 2003

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LAW GROUP PLLC



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701 FIFTH AVENUE, SUITE 6300

SEATTLE, WA 98104-7092

76



EXHIBIT E